

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8183 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MAHADEVBHAI SHIVABHAI PATEL

Versus

CHIEF ENGINEER G.E.B.

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Appearance:

MS SUDHA R GANGWAR for Petitioner

MR RC JANI for Respondent No. 1

MR RD DAVE for Respondent No. 3

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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 20/04/99

ORAL JUDGEMENT

Heard Ms. Sudha Gangwar and Mr. R.C. Jani for the parties.

Rule.

The petitioner had purchased the property in

question in an auction held by Gujarat State Financial Corporation, respondent No. 3. The previous owner of the property had failed to pay the electricity bills issued to it by the office of the respondent Gujarat Electricity Board. The petitioner seeks indulgence of this court for a direction on the Gujarat Electricity Board for giving connection to the petitioner to enable the petitioner to start the factory on the ground that the petitioner would not be liable for the dues payable by the previous owner as the petitioner is an auction purchaser. Reliance is placed on the decision of the Hon'ble Supreme Court in the case of ISHA MARBLES VS. BIHAR STATE ELECTRICITY BOARD AND ANOTHER reported in JT 1995(2) SC 626. Mr. Jani opposed this petition only on the ground that the petitioner had approached the Board with an application that the petitioner is prepared to pay the dues of the previous owner and instalments may be granted and the respondent Gujarat Electricity Board has gracefully granted instalments and now the petitioner cannot deny its liability.

Having considered the facts of the case it appears that the petitioner may have approached the Gujarat Electricity Board with a request for grant of instalments of the liability of the previous owner probably out of ignorance of his right or may be out of enthusiasm but a liability cannot be thrust on him and he cannot be forced into paying any dues which he is not liable to pay legally by withholding / non-granting electric connection.

The principle laid down by the apex court in the case of ISHA MARBLE (supra) would squarely apply to the facts of the present case wherein it is specifically held that an auction purchaser is not liable to pay dues of the previous owner for the electricity consumed by the previous owner. The same principle was accepted by this court while deciding Special Civil Application No. 7453 of 1995 decided on 13.12.1995 and in view of this fact, the petition deserves to be allowed. The authorities of respondent Nos. 1 and 2 are directed to decide the question of giving reconnection to the petitioner of the electricity supply in light of decision of the apex court in the case of ISHA MARBLE (supra) ignoring the dues of the previous consumer. The said decision may be taken as early as possible preferably within four weeks from today. The petition stands allowed accordingly. Rule made absolute. No costs.

(A.L. DAVE, J)

